The Builder.
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THE Ministry having returned to office, Lord Seymour's Metropolitan Buildings Bill will be proceeded with. As might be expected, it excites considerable interest within the limits to which it refers. Several important bodies have appointed committees to consider it,—the Institute of Architects, the Builders' Society, the Master Carpenters' Society, the Metropolitan Sanitary Association, &c.; and it is to be hoped that Lord Seymour will postpone the second reading to give them time to make their respective reports. Our readers are already in possession of the heads of the Bill,* and we now propose to examine it more in detail, and to suggest such alterations in it as seem to us desirable.

Having long ago urged that the referees should sit in open court (as police magistrates), and give prompt decision in ordinary cases, we view with satisfaction those clauses of the Bill which provide for the establishment of such a Court. Since the publication of our brief analysis of the Bill, we have received many communications on the subject from general practitioners, district surveyors, and builders, and all, without exception, express the same opinion on this head. This provision alone has, in truth, secured for the proposed measure a much greater degree of favour than was awarded to previous proposals. The constitution of the Court is another question; and upon this the majority of our correspondents agree with us in thinking that, as ninety-nine out of a hundred questions which are likely to arise, will have reference to facts connected with building operations, these would be better determined, in the first instance, by an architect than a lawyer, and that it would be found more convenient to impose the duty of hearing upon the architect, constituting him the judge, and giving him the assistance of a lawyer, to draw his awards and advise on points of law, when they arise. In the analogous case of an ordinary arbitration connected with building matters, this is the course most frequently pursued; and our experience goes to show that an architect always decides the questions referred to him in one-half the time, and at one-half the expense that a lawyer would.†

Those who drew the Bill seem scarcely to be aware of what a large amount of unrecognised labour, involving duty of a most invidious character, will devolve upon the architectural referee, who is introduced (clause 16) with a *whereas the questions arising* [in a Building Bill!] MAY BE *of a technical nature!* Why what are the questions—nine out of ten—that do arise? He is to *advise* the said judge, who, if he is a wise man, will act upon the advice given, and the architectural referee will be an irresponsible despot; and if he is a fool (that is, the judge) he will affect an opinion of his own, and the architectural referee will *enjoy* universal abuse, as the judge's reputed adviser and supposed suggester of his judgment!

By sections 80 and 81 of the new Bill the architectural referee will have the power of controlling the mode of construction to be adopted in *all* the public buildings of London; this, in the hands of a capricious or incapable person, would be a very dangerous power. Perhaps it would be desirable to provide in the Bill for the appointment of two assistant architectural referees, who, in the event of any difference between the principal architectural referee and the person employed to design the building, might act as a court of appeal, or on any very important occasion might be called in in the first instance to assist the court with their judgment. A salary would not be necessary, for it would be a distinction to hold the appointment, and they might be paid by a fee when their services were required. As it now stands the practice, as it regards construction, of all architects and builders within the metropolitan district, will be under the autocratic authority of the architectural referee, to whom Providence grant good discretion and a tough hide!

The power proposed to be given to the judge is very great,—greater than it should be. By clause 37 he may *rehear* any cases, "whenever the ends of justice or the objects of the Act would, in his opinion, be promoted by so doing," and may rescind or alter any order that may have been made previously by him. This would leave suitors in great uncertainty, and should be modified, at all events, to the extent of limiting the time within which the rehearing might take place.

Clause 38, which gives the judge power, with consent of all parties, to refer matters to arbitration, gives the appointment of the arbitrator to the judge, and, moreover, which seems to us very objectionable, empowers him, "on application to him (*query*, by whom?) within such time as shall be limited by the rules of practice," *to set aside the award!*

No appeal can be made against any judgment or order of the judge, except on a special case drawn up by the judge himself.

As to the costs of the court, nothing is settled. These would require looking after.

Relative to notices, a great improvement is proposed. The Bill provides that all forms and notices are to be prepared by the judge, as from time to time they become necessary, and that the notices emanating from the Metropolitan Buildings Office are to be served by the bailiff of the court. Great inconvenience (from which we have often personally suffered) has arisen by the present arrangement, which compels the parties carrying on proceedings to use the notices scheduled to the Act, though they are sometimes quite inapplicable, and not only to prove the service of their own notices, but also to do the like by all the documents coming from the Metropolitan Buildings Office.

Clause 29 is very objectionable, and should be expunged.* It would be most unjust to compel suitors to employ a solicitor in every case, when his architect, who would probably be forced to appear, could usually manage the matter for him much better. It is no answer to say, that by permission of the judge a person not an attorney may appear: all must know very well that in practice the clause would amount to a prohibition of such a course, and that it is intended to do so is made evident by the provision that no person but an attorney can recover costs for so appearing. We trust that determined opposition will be offered to this clause on all hands.

Throughout the Bill, the abnegation of the rights of the architectural profession is apparent.

In comparing the new Bill with the Act now in operation, with regard to the *schedules*, it seems to show great and radical improvement. The distinction between the first and second class buildings, which has been the cause of much difficulty, is abolished, and all those parts of the schedules connected with this distinction, and with the thicknesses of the walls, have been proportionably simplified. There is also a considerable extension in the area of the first-rate house (as we mentioned in our first notice), and an extension also of half a square in the area of the fourth-rate house; both which alterations will be found of great advantage to the builders and the public. In the latter case we should be glad to have it still further extended: the previous restriction has had a very injurious effect in a sanitary point of view.

Again, the party and external walls are made uniform in thickness, which will be found convenient; and it seems (although we reserve our opinion on this head) that generally the schedules, while they embody the modifications which have been found necessary from time to time, are, upon the whole, both shortened and simplified.

Some alterations will be required in the party-wall sections of the Bill, for, as they now stand, it is not at all clear how or by whom walls are to be surveyed, in case of difference between the building-owner and adjoining-owner, which usually occurs.

The table of fees is now so framed, that, by the general rules which accompany them, an end will be put to those accumulations of charges which have sometimes been made for different works executing in the same buildings at the same time, and which have brought so much scandal on the district surveyors. By the introduction, in table 2, of the words "not exceeding," it will be manifest, both to the public and to the surveyors, that these are to be considered *maximum* charges, and to be allowed only where the *quantum* of work done will justify their being made.

Throughout the Bill, considerable discretionary powers are given to the district surveyor, who will be able to decide at once what in each particular case is to be done, instead of sending the builder, as heretofore, to the official referees upon every trifling departure from the strict letter of the Act, which may become necessary. Thus, the partial rebuilding of irregular buildings for the purpose of public improvements; the raising of existing walls, sound but not of the required thickness; the materials to be used for projections from external walls; the formation of recesses in party-walls; and the erection of buildings on

* See page 131, *ante*.

† An intelligent builder, writing to us on the subject, says:—"Let there be a law judge, if they like,—but let all questions affecting construction or the skill and knowledge of an architect be sent to the architectural referees (three instead of one), and make it a point that their opinion be adopted, instead of the judge having the veto upon things he knows nothing about."

* "No person shall be entitled to appear for any other party to any proceeding in the said court, unless he be an attorney of one of her Majesty's Superior Courts of Record, or a barrister-at-law instructed by such attorney on behalf of the party, or, by leave of the judge, any other person allowed by the judge to appear instead of such party; and no person, not being an attorney admitted to one of her Majesty's Superior Courts of Record, shall be entitled to recover any costs, fees, or sums of money for appearing or acting on behalf of any other person in the said court."

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